



DEPARTMENT OF STATE

Washington, D.C. 20520

September 30, 1977.

Chris:

Herewith is Dick Ericson's suggestions with respect to making distinctions among the types of military equipment being sought by Argentina. His breakdown has a certain rationale, but I am not sure it fully achieves the purposes you had in mind.

(Lucy Benson has also sent up a memo (attached) stressing the importance of coordinating our arms transfer decisions with our non-proliferation interests in Argentina, and Doug Bennet has sent up a memo (attached) opposing the sales.)

I believe a possible alternative means of distinguishing among the cases would be to approve only those requests which involve non-lethal equipment and which do not go to the Navy. If these two criteria were to be used, the following decisions would result:

Periscopes: no (Navy)
C-130 tanker aircraft: yes (not lethal, not Navy)
Helicopters: yes (not lethal, not Navy)
Torpedos: no (lethal, Navy)
Bombs and artillery ammunition: no (lethal and, in some cases, Navy)
Cartridges: no (lethal, Navy)
Shells: no (lethal)

In other words, only the C-130's (two are being sought) and the helicopters (three are being sought) would be approved. Both of these are at the advisory opinion stage, and we could, as Ericson suggests, state in the opinion that ultimate approval will be contingent on improvements in the human rights situation. Of course, a "no" on the other categories need not be a final "no." We can delay or give a disapprove until improvements have occurred.

Incidentally, the Argentine desk has learned that the Argentines are very likely to refuse to give the assurances we sought re the eight Bell helicopters.

Department of State, A/GIS/IPS/SRP

Change to _____

() Release () Excise () Deny () Declassify

Exemptions b () () E.O. 13526 25x () ()

Declassify after _____

With concurrence of: _____

obtained _____

not obt. _____

IPS by _____

Date _____

Finally, I wonder whether there is not a legal issue that should be analyzed before you decide this. If we believe that Argentina is engaged in "a consistent pattern of gross violations," I believe certain consequences ensue, under §502 B of the Foreign Assistance Act, which should be weighed before we act on these requests. I have in mind §502 B(c)(1) which provides inter alia that upon request from the Congress we must submit a statement setting forth whether "notwithstanding /the recipient's human rights/ practices: (i) extraordinary circumstances exist which necessitate a continuation of security assistance for such country, and (ii) on all the facts it is in the national interest of the United States to provide such assistance." I suppose such a statement could be crafted, but I doubt whether it would be comfortable to defend it.

J.C.V.
Steve

P.S. Doug Bennet points out in his memo that October 1, 1978, is a Congressionally-imposed deadline for deliveries to Argentina. I just learned that the only two items which might not be deliverable by then are the C-130's and the helicopters. There is a chance that the C-130's could be, and I haven't yet been able to get further information on the helicopters. Of course, Congress could extend or remove the deadline if the human rights situation in Argentina improves.

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